

112TH CONGRESS  
1ST SESSION

# S. 832

To reauthorize certain port security programs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 14, 2011

Ms. COLLINS (for herself and Mrs. MURRAY) introduced the following bill;  
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To reauthorize certain port security programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “SAFE Port Reauthorization Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Extension of port security programs.
- Sec. 3. Customs-Trade Partnership Against Terrorism.
- Sec. 4. Recognition of other countries’ trusted shipper programs.
- Sec. 5. Secure Freight Initiative.
- Sec. 6. Strengthening America’s Waterway Watch Program.
- Sec. 7. Port security grant program management.

1 **SEC. 2. EXTENSION OF PORT SECURITY PROGRAMS.**

2 (a) AUTOMATED TARGETING SYSTEM.—Section  
3 203(g) of the SAFE Port Act (6 U.S.C. 943(g)) is amend-  
4 ed by striking paragraphs (1) through (3) and inserting  
5 the following:

6 “(1) \$32,565,000 for fiscal year 2011;

7 “(2) \$33,475,000 for fiscal year 2012;

8 “(3) \$34,500,000 for fiscal year 2013;

9 “(4) \$35,550,000 for fiscal year 2014;

10 “(5) \$36,580,000 for fiscal year 2015; and

11 “(6) \$37,710,000 for fiscal year 2016.”.

12 (b) CONTAINER SECURITY INITIATIVE.—Section  
13 205(m) of the SAFE Port Act (6 U.S.C. 945(m)) is  
14 amended by striking paragraphs (1) through (3) and in-  
15 serting the following:

16 “(1) \$166,860,000 for fiscal year 2011;

17 “(2) \$171,865,000 for fiscal year 2012;

18 “(3) \$177,000,000 for fiscal year 2013;

19 “(4) \$182,330,000 for fiscal year 2014;

20 “(5) \$187,800,000 for fiscal year 2015; and

21 “(6) \$193,600,000 for fiscal year 2016.”.

22 (c) CUSTOMS-TRADE PARTNERSHIP AGAINST TER-  
23 RORISM.—Section 223(a) of the SAFE Port Act (6 U.S.C.  
24 973(a)) is amended by striking paragraphs (1) through  
25 (3) and inserting the following:

26 “(1) \$64,500,000 for fiscal year 2011;

- 1           “(2) \$66,400,000 for fiscal year 2012;  
 2           “(3) \$68,400,000 for fiscal year 2013;  
 3           “(4) \$70,500,000 for fiscal year 2014;  
 4           “(5) \$72,500,000 for fiscal year 2015; and  
 5           “(6) \$74,700,000 for fiscal year 2016.”.

6 **SEC. 3. CUSTOMS-TRADE PARTNERSHIP AGAINST TER-**  
 7 **RORISM.**

8           (a) UNANNOUNCED INSPECTIONS.—Section 217(a)  
 9 of the SAFE Port Act (6 U.S.C. 967(a)) is amended—  
 10           (1) by striking “If at any time” and inserting  
 11           the following:

12           “(1) FAILURE TO MEET REQUIREMENTS.—If at  
 13           any time”; and

14           (2) by inserting after paragraph (1), as redesign-  
 15           ated, the following:

16           “(2) UNANNOUNCED INSPECTIONS.—The Sec-  
 17           retary, acting through the Commissioner, may con-  
 18           duct an unannounced inspection of a C-TPAT par-  
 19           ticipant’s security measures and supply chain secu-  
 20           rity practices if the Commissioner determines, based  
 21           on previously identified deficiencies in security meas-  
 22           ures and supply chain security practices of the C-  
 23           TPAT participant, that there is a significant likeli-  
 24           hood that such an inspection would assist in con-

1       firming the security measures in place and further  
2       the validation process.”.

3       (b) TIER 2 PARTICIPANTS.—Section 215(b) of the  
4       SAFE Port Act (6 U.S.C. 965(b)) is amended—

5             (1) by striking “and” at the end of paragraph  
6             (2);

7             (2) by striking the period at the end of para-  
8             graph (3) and inserting “; and”; and

9             (3) by adding at the end the following:

10            “(4) voluntary training on supply chain secu-  
11            rity.”.

12       (c) ADDITIONAL TRADE BENEFITS.—Section 216 of  
13       the SAFE Port Act (6 U.S.C. 966) is amended—

14             (1) in subsection (c)—

15                (A) in paragraph (3), by striking “and” at  
16                the end;

17                (B) in paragraph (4), by striking “and” at  
18                the end;

19                (C) in paragraph (5), by striking the pe-  
20                riod at the end and inserting a semicolon; and

21                (D) by adding at the end the following:

22                “(6) voluntary training on supply chain secu-  
23                rity; and

24                “(7) increased information sharing on the secu-  
25                rity threats described in subsection (d).”; and

1           (2) by striking subsection (d) and inserting the  
2 following:

3           “(d) PRIVATE SECTOR INFORMATION SHARING ON  
4 SECURITY THREATS.—

5           “(1) IN GENERAL.—The Secretary shall estab-  
6 lish a program to promote sharing information with  
7 Tier 3 participants and other private entities regard-  
8 ing—

9           “(A) potential vulnerabilities, attacks, and  
10 exploitations of the international supply chain;  
11 and

12           “(B) means and methods of preventing, re-  
13 sponding to, and mitigating consequences from  
14 the vulnerabilities, attacks, and exploitations  
15 described in subparagraph (A).

16           “(2) CONTENTS.—The program established  
17 under paragraph (1) shall include—

18           “(A) the creation of classified and unclas-  
19 sified means of accessing information that may  
20 be used by appropriately cleared personnel and  
21 that will provide, as appropriate, ongoing situa-  
22 tional awareness of the security of the inter-  
23 national supply chain; and

24           “(B) the creation of guidelines to establish  
25 a mechanism by which owners and operators of

1 international supply chain infrastructure may  
2 report actual or potential security breaches.”.

3 **SEC. 4. RECOGNITION OF OTHER COUNTRIES’ TRUSTED**  
4 **SHIPPER PROGRAMS.**

5 Section 218 of the SAFE Port Act (6 U.S.C. 968)  
6 is amended by adding at the end the following:

7 “(j) RECOGNITION OF OTHER COUNTRIES’ TRUSTED  
8 SHIPPER PROGRAMS.—Not later than 30 days before en-  
9 tering into an arrangement between the United States and  
10 a foreign government providing for mutual recognition of  
11 supply chain security programs, which may result in the  
12 awarding of benefits described in section 214, 215, or 216  
13 of the SAFE Port Act, the Secretary of Homeland Secu-  
14 rity shall—

15 “(1) notify Congress of the proposed terms of  
16 such arrangement; and

17 “(2) determine, in consultation with the Com-  
18 missioner that the foreign government’s supply chain  
19 security program provides an equivalent level of sup-  
20 ply chain security as provided by the Customs-Trade  
21 Partnership Against Terrorism.”.

22 **SEC. 5. SECURE FREIGHT INITIATIVE.**

23 Section 232(b) of the SAFE Port Act (6 U.S.C.  
24 982(b)) is amended—

1 (1) in paragraph (1), by striking “A container”  
2 and inserting “Except as provided under paragraph  
3 (10), a container”; and

4 (2) by adding at the end the following:

5 “(10) WAIVER.—The Secretary may waive the  
6 application of paragraph (1) if the Secretary cer-  
7 tifies to Congress that—

8 “(A) C-TPAT revalidations are occurring  
9 at least once every 4 years;

10 “(B) the Container Security Initiative has  
11 been implemented and is in operation at all  
12 high-risk foreign ports;

13 “(C) 100 percent of cargo containers origi-  
14 nating outside the United States undergo a  
15 screening to identify high-risk containers;

16 “(D) 100 percent of the containers that  
17 have been identified as high-risk are scanned or  
18 searched before entering the United States; and

19 “(E) the additional data elements required  
20 to be submitted to the Department under sec-  
21 tion 203 to identify high-risk cargo have im-  
22 proved the capabilities of the Automated Tar-  
23 geting System, based on empirical evidence of  
24 seizures of illegal narcotics and dangerous ma-  
25 terials.”.

1 **SEC. 6. STRENGTHENING AMERICA'S WATERWAY WATCH**  
2 **PROGRAM.**

3 (a) IMMUNITY.—

4 (1) IMMUNITY FOR REPORTS OF SUSPECTED  
5 TERRORIST ACTIVITY OR SUSPICIOUS BEHAVIOR AND  
6 RESPONSE.—

7 (A) IN GENERAL.—Any individual who, in  
8 good faith and based on objectively reasonable  
9 suspicion, makes, or causes to be made, a vol-  
10 untary report of covered activity to an author-  
11 ized official shall be immune from civil liability  
12 under Federal, State, and local law for such re-  
13 port.

14 (B) FALSE REPORTS.—Subparagraph (A)  
15 shall not apply to any report that—

16 (i) the individual knew to be false; or  
17 (ii) was made with reckless disregard  
18 for the truth at the time that individual  
19 made the report.

20 (2) IMMUNITY FOR RESPONSE.—

21 (A) IN GENERAL.—Any authorized official  
22 who observes, or receives a report of, a covered  
23 activity and takes reasonable action in good  
24 faith to respond to such activity shall have  
25 qualified immunity from civil liability for such  
26 action, consistent with the applicable law of the



1 relevant jurisdiction. An authorized official not  
2 entitled to assert the defense of qualified immu-  
3 nity shall be immune from civil liability under  
4 Federal, State, and local law if such authorized  
5 official takes reasonable action, in good faith, to  
6 respond to the reported activity.

7 (B) SAVINGS PROVISION.—Nothing in this  
8 paragraph may be construed to—

9 (i) affect the ability of any authorized  
10 official to assert any defense, privilege, or  
11 immunity that would otherwise be available  
12 under applicable law; or

13 (ii) affect any such defense, privilege,  
14 or immunity.

15 (3) ATTORNEY FEES AND COSTS.—Any indi-  
16 vidual or authorized official granted immunity from  
17 civil liability under this section shall be entitled to  
18 recover from the plaintiff all reasonable costs and  
19 attorney fees.

20 (4) EXEMPTION FOR FOIA.—A report regarding  
21 a covered activity made under this section shall not  
22 be subject to disclosure under section 552 of title 5,  
23 United States Code (commonly referred to as the  
24 Freedom of Information Act).

1 (b) REPORT.—In accordance with section 801 of the  
2 Coast Guard Authorization Act of 2010 (Public Law 111–  
3 281; 124 Stat. 2989), the Secretary shall submit a report  
4 that describes the coordination of the America’s Waterway  
5 Watch Program and similar critical infrastructure sus-  
6 picious activity reporting programs within the Department  
7 of Homeland Security. In addition to submitting the re-  
8 port to the Committee on Commerce of the Senate and  
9 the Committee on Homeland Security of the House of  
10 Representatives, the Secretary shall submit the report to  
11 the Committee on Homeland Security and Governmental  
12 Affairs of the Senate.

13 (c) DEFINITIONS.—In this section:

14 (1) ACT OF TERRORISM.—The term “act of ter-  
15 rorism” has the meaning given the term in section  
16 3077 of title 18, United States Code.

17 (2) AUTHORIZED OFFICIAL.—The term “au-  
18 thorized official” means—

19 (A) any employee or agent of a vessel, fa-  
20 cility, port, or waterway or other person with  
21 responsibilities relating to the security of such  
22 systems;

23 (B) any officer, employee, or agent of the  
24 Department of Homeland Security, the Depart-  
25 ment of Transportation, or the Department of

1 Justice with responsibilities relating to the se-  
2 curity of vessels, facilities, ports, or waterways;  
3 and

4 (C) any Federal, State, or local law en-  
5 forcement officer.

6 (3) COVERED ACTIVITY.—The term “covered  
7 activity” means any suspicious transaction, activity,  
8 or occurrence that—

9 (A) involves, or is directed against, a ves-  
10 sel, facility, port, or waterway; and

11 (B) indicates that an individual may be  
12 preparing to engage, or is engaging, in a viola-  
13 tion of law relating to—

14 (i) a threat to a vessel, facility, port,  
15 or waterway; or

16 (ii) an act of terrorism.

17 (4) FACILITY.—The term “facility” has the  
18 meaning given the term in section 70101(2) of title  
19 46, United States Code.

20 **SEC. 7. PORT SECURITY GRANT PROGRAM MANAGEMENT.**

21 (a) DETERMINATION OF APPLICATIONS.—Section  
22 70107(g) of title 46, United States Code, is amended—

23 (1) by striking “Any entity” and inserting the  
24 following:

25 “(1) IN GENERAL.—Any entity”; and

1 (2) by adding at the end the following:

2 “(2) DETERMINATION.—Notwithstanding any  
3 other provision of law, the Secretary shall, not later  
4 than 60 days after the date on which an applicant  
5 submits a complete application for a grant under  
6 this section, either approve or disapprove the appli-  
7 cation.”.

8 (b) ADMINISTRATION OF COST SHARE DETERMINA-  
9 TIONS.—Section 70107(c)(2) of title 46, United States  
10 Code, is amended by inserting after subparagraph (C) the  
11 following:

12 “(D) COST SHARE DETERMINATIONS.—  
13 Notwithstanding any other provision of law, not  
14 later than 60 days after the date on which an  
15 applicant submits a complete application for a  
16 matching requirement (other than a project  
17 specified in paragraph (1)), the Secretary shall  
18 either approve or disapprove the application.”.

19 (c) ADMINISTRATION OF EXTENSIONS.—Section  
20 70107(i) of title 46, United States Code, is amended by  
21 inserting after paragraph (4) the following:

22 “(5) EXTENSION DETERMINATIONS.—Notwith-  
23 standing any other provision of law, not later than  
24 60 days after the date on which an applicant sub-  
25 mits a complete application for a grant extension,

1 the Secretary shall either approve or disapprove the  
2 application.”.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—Section  
4 70107(l) of title 46, United States Code, is amended to  
5 read as follows:

6 “(l) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated \$300,000,000 for each  
8 of the fiscal years 2011 through 2016 to carry out this  
9 section.”.

○